

AMENDED IN SENATE JULY 2, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1229

Introduced by Assembly Member Carter

February 23, 2007

~~An act to add Section 466.4 to the Penal Code, relating to criminal tools.~~ *An act to amend Section 13500 of the Penal Code, relating to law enforcement.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1229, as amended, Carter. ~~Criminal tools.~~ *Law Enforcement.*

Existing law establishes within the Department of Justice a Commission on Peace Officer Standards and Training, which consists of 14 members appointed by the Governor, as specified. Four of the members of the commission are required to be peace officers of the rank of sergeant or below with a minimum of 5 years experience as a deputy sheriff, city police officer, marshal, or state-employed peace officer for whom the commission sets standards. These 4 members of the commission are also required to have demonstrated leadership in their local or state peace officer association or union.

This bill would instead require that the Commission on Peace Officer Standards and Training consist of 15 members appointed by the Governor, as specified. The bill would require each member of those 4 members to have demonstrated leadership in the recognized employee organization having the right to represent the member, as set forth in specified provisions. The bill would also require that one member be a California peace officer of the rank of sergeant or below with a

minimum of 10 years experience and shall have demonstrated leadership in a California-based law enforcement association, as specified. The bill would also make nonsubstantive changes.

This bill would incorporate additional changes in Section 13500 of the Penal Code proposed by SB 566, that would become operative only if SB 566 and this bill are both chaptered and become effective on or before January 1, 2008, and this bill is chaptered last.

~~Existing law makes it a misdemeanor to possess an object, as specified, designed to open, break into, or tamper with a coin-operated machine, punishable by up to one year imprisonment in the county or a fine of up to \$1,000.~~

~~This bill would make it a misdemeanor to possess an ATM card trapping device, as defined, punishable by up to one year imprisonment in the county or a fine of up to \$1,000.~~

~~Because this bill would create a new crime, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13500 of the Penal Code is amended to
2 read:

3 13500. (a) There is in the Department of Justice a Commission
4 on Peace Officer Standards and Training, hereafter referred to in
5 this chapter as the commission. The commission consists of ~~14~~ 15
6 members appointed by the Governor, after consultation with, and
7 with the advice of, the Attorney General and with the advice and
8 consent of the Senate. Racial, gender, and ethnic diversity shall
9 be considered for all appointments to the commission.

10 ~~The~~

11 (b) The commission shall be composed of the following
12 members:

13 (1) Two members shall be (i) sheriffs or chiefs of police or
14 peace officers nominated by their respective sheriffs or chiefs of

1 police, (ii) peace officers who are deputy sheriffs or city ~~police~~
2 *police officers*, or (iii) any combination thereof.

3 (2) Three members shall be sheriffs or chiefs of police or peace
4 officers nominated by their respective sheriffs or chiefs of police.

5 (3) Four members shall be peace officers of the rank of sergeant
6 or below with a minimum of five years' experience as a deputy
7 sheriff, city police officer, marshal, or state-employed peace officer
8 for whom the commission sets standards. These members shall
9 have demonstrated leadership in their local or state peace officer
10 association or union.

11 (4) One member shall be an elected officer or chief
12 administrative officer of a county in this state.

13 (5) One member shall be an elected officer or chief
14 administrative officer of a city in this state.

15 (6) Two members shall be public members who shall not be
16 peace officers.

17 (7) One member shall be an educator or trainer in the field of
18 criminal justice.

19 (8) *One member shall be a peace officer in California of the*
20 *rank of sergeant or below with a minimum of 10 years experience*
21 *as a deputy sheriff, city police officer, marshal, or state-employed*
22 *peace officer for whom the commission sets standards. This*
23 *member shall have demonstrated leadership in a California-based*
24 *law enforcement association that is also a presenter of*
25 *POST-certified law enforcement training that advances the*
26 *professionalism of peace officers in California.*

27 ~~The~~

28 (c) *The* Attorney General shall be an ex officio member of the
29 commission.

30 ~~Of~~

31 (d) *Of* the members first appointed by the Governor, three shall
32 be appointed for a term of one year, three for a term of two years,
33 and three for a term of three years. Their successors shall serve
34 for a term of three years and until appointment and qualification
35 of their successors, each term to commence on the expiration date
36 of the term of the predecessor.

37 ~~The~~

38 (e) (1) *The* additional member provided for by the Legislature
39 in its 1973–74 Regular Session shall be appointed by the Governor

1 on or before January 15, 1975, and shall serve for a term of three
2 years.

3 ~~The~~

4 (2) *The* additional member provided for by the Legislature in
5 its 1977–78 Regular Session shall be appointed by the Governor
6 on or after July 1, 1978, and shall serve for a term of three years.

7 ~~The~~

8 (3) *The* additional members provided for by the Legislature in
9 its 1999–2000 Regular Session shall be appointed by the Governor
10 on or before July 1, 2000, and shall serve for a term of three years.

11 (4) *The additional member provided for by the Legislature in*
12 *its 2007–08 Regular Session shall be appointed by the Governor*
13 *on or before January 31, 2008, and shall serve for a term of three*
14 *years.*

15 *SEC. 2. Section 13500 of the Penal Code is amended to read:*

16 13500. (a) There is in the Department of Justice a Commission
17 on Peace Officer Standards and Training, hereafter referred to in
18 this chapter as the commission. The commission consists of ~~14~~ 15
19 members appointed by the Governor, after consultation with, and
20 with the advice of, the Attorney General and with the advice and
21 consent of the Senate. Racial, gender, and ethnic diversity shall
22 be considered for all appointments to the commission.

23 ~~The~~

24 (b) *The* commission shall be composed of the following
25 members:

26 (1) Two members shall be (i) sheriffs or chiefs of police or
27 peace officers nominated by their respective sheriffs or chiefs of
28 police, (ii) peace officers who are deputy sheriffs or city ~~policemen~~
29 *police officers*, or (iii) any combination thereof.

30 (2) Three members shall be sheriffs or chiefs of police or peace
31 officers nominated by their respective sheriffs or chiefs of police.

32 (3) Four members shall be peace officers of the rank of sergeant
33 or below with a minimum of five years' experience as a deputy
34 sheriff, city police officer, marshal, or state-employed peace officer
35 for whom the commission sets standards. ~~These members~~ *Each*
36 *member* shall have demonstrated leadership in ~~their local or state~~
37 ~~peace officer association or union~~ *the recognized employee*
38 *organization having the right to represent the member, as set forth*
39 *in the Meyers-Milias-Brown Act (Chapter 10 (commencing with*
40 *Section 3500)) and the Ralph C. Dills Act (Chapter 10.5*

1 (*commencing with Section 3525*)) of Division 4 of Title 1 of the
2 *Government Code*.

3 (4) One member shall be an elected officer or chief
4 administrative officer of a county in this state.

5 (5) One member shall be an elected officer or chief
6 administrative officer of a city in this state.

7 (6) Two members shall be public members who shall not be
8 peace officers.

9 (7) One member shall be an educator or trainer in the field of
10 criminal justice.

11 (8) *One member shall be a peace officer in California of the*
12 *rank of sergeant or below with a minimum of 10 years experience*
13 *as a deputy sheriff, city police officer, marshal, or state-employed*
14 *peace officer for whom the commission sets standards. This*
15 *member shall have demonstrated leadership in a California-based*
16 *law enforcement association that is also a presenter of*
17 *POST-certified law enforcement training that advances the*
18 *professionalism of peace officers in California.*

19 ~~The~~

20 (c) *The* Attorney General shall be an ex officio member of the
21 commission.

22 ~~Of~~

23 (d) *Of* the members first appointed by the Governor, three shall
24 be appointed for a term of one year, three for a term of two years,
25 and three for a term of three years. Their successors shall serve
26 for a term of three years and until appointment and qualification
27 of their successors, each term to commence on the expiration date
28 of the term of the predecessor.

29 ~~The~~

30 (e) *The* additional member provided for by the Legislature in
31 its 1973–74 Regular Session shall be appointed by the Governor
32 on or before January 15, 1975, and shall serve for a term of three
33 years.

34 ~~The~~

35 (f) *The* additional member provided for by the Legislature in its
36 1977–78 Regular Session shall be appointed by the Governor on
37 or after July 1, 1978, and shall serve for a term of three years.

38 ~~The~~

(g) *The additional members provided for by the Legislature in its 1999–2000 Regular Session shall be appointed by the Governor on or before July 1, 2000, and shall serve for a term of three years.*

(h) *The additional member provided for by the Legislature in its 2007–08 Regular Session shall be appointed by the Governor on or before January 31, 2008, and shall serve for a term of three years.*

SEC. 3. *Section 2 of this bill incorporates amendments to Section 13500 of the Penal Code proposed by both this bill and SB 566. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 13500 of the Penal Code, and (3) this bill is enacted after SB 566, in which case Section 1 of this bill shall not become operative.*

SECTION 1. ~~Section 466.4 is added to the Penal Code, to read:~~

466.4. (a) ~~Every person who possesses an Automated Teller Machine (ATM) card trapping device with the intent to commit theft, is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than one year, by a fine not exceeding one thousand dollars (\$1,000), or by both a fine and imprisonment.~~

(b) ~~For purposes of this section, the term “Automated Teller Machine (ATM) card trapping device” means a device or an instrument designed to be inserted into an ATM in order to prevent an ATM card from being returned to its owner, and, upon removal from the ATM, allows the user of the trapping device to retrieve the card.~~

SEC. 2. ~~No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~